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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 6489 OF 2005

Petitioners	1.	Bindra Prasad, S/o. Late Shri Ghinnulal, Aged about 65 years, Resident of Haldibadi, (Near Railway station) Chirmiri, District – Korea (C.G.).
	2.	Om Prakash, S/o. Late Shri Mehngulal, Aged about 38 years,
	3.	Shiv Prasad, S/o. Late Shri Mehngulal Aged about 35 years , Both resident of Haldibadi, (Near Railway station) Chirimiri , District – Korea (C.G.).
	Versus	
Respondents 1 to 3 PLAINTIFFS	1	Haridas, Son of Ghinnulal, aged about 70 years
	2.	Raj Kumar, Son of Haridas, Aged about 42 years,
	3.	Ashok Kr. Gupta, Son of Haridas Gupta (All resident of Haldibadi, (Near Railway station) Chirimiri, District – Korea (C.G.))
RESPONDENT NO.4 DEFENDANT NO.4	4.	Indian Oil Corporation Limited, Through the General Manager, 16, Arera Hills, Jail Road, BHOPAL. (Madhya Pradesh)
RESPONDENT DEFENDANT NO.5	5.	The Senior Mandal Prabhandhak (Sales), Indian Oil Corporation Limited, Indian Oil Bhavan, Rajiv Gandhi Marg, VIP Road, Telibandha, RAIPUR (C.G.).

Present : Shri R.S. Jaiswal, learned Sr. Advocate, with Shri Yogesh Pandey, learned counsel for the petitioners.
Shri Kanak Tiwari, learned Sr. Advocate with Shri Mahendra Dubey, learned counsel for respondents No. 1 to 3.
Shri Bhishma Kinger, learned counsel for respondent 4 &5.

WRIT PETITION NO. 1537 OF 2002

Petitioner	1.	Ashok Kumar Gupta, S/o. Haridas Gupta, aged about 38 years, R/o. Haldibadi, Chirimiri, Tehsil Manedragarh, Distt. Koria, C.G.
	Versus	
Respondents	1	The State of Chhattisgarh, through the Secretary, Revenue Department, Raipur, (C.G.)
	2.	The Collector, Koria, Baikunthpur, Chhattisgarh.
	3.	Naib Tehsildar, Chirimiri, District Koria, C.G.
	4.	Commissioner, Bilaspur, Division, Bilaspur, C.G.
	5.	Vrinda Prasad Gupta, S/o. Ghinnulal Gupta, aged about 65 years.
	6.	Mehngulal Gupta, S/o. Ghinnulal Gupta, aged about 60 years.
		No.5 & 6, R/o. Haldibadi, Chirimiri, Dist. Koria, C.G.

Present : Shri Kanak Tiwari, learned Sr. Advocate with Shri Mahendra Dubey, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A for State/Respondents 1 to 4.
Shri R.S. Jaiswal, learned Sr. Advocate with Shri Yogesh Pandey, learned counsel for respondents 5 & 6.

WRIT PETITION NO. 2160 OF 2002

Petitioner	1.	M/s. Bindra Prasad Mehngulal (A partnership firm)Through the Partner, Shri Bindra Prasad, Son of Late Shri Ghinnulal, aged about 65 years, Resident of Haldibadi, Chirimiri, District : Korea (Chhattisgarh)

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Versus

Respondents	1	State of Chhattisgarh, through the Secretary, Food & Civil Supplies, D.K. Bhavan, Raipur.
	2.	The Commissioner, Bilaspur Division, Bilaspur (C.G.)
	3.	Ashok Kumar Gupta, S/o. Haridas Gupta, Aged about 38 years, Resident of Haldibadi, Chirimiri, Tahsil-Manendragarh, District : Korea (CG)

Present : Shri R.S. Jaiswal, learned Sr. Advocate with Shri Yogesh Pandey, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A for State/Respondents 1 & 2.
Shri. Kanak Tiwari, learned Sr. Advocate with Shri Mahendra Dubey, learned counsel for respondent No.3.

WRIT PETITION NO. 888 OF 2003

Petitioner	1.	M/s. Bindra Prasad Mehngulal (A partnership firm)Through the Partner, Shri Bindra Prasad, Son of Late Shri Ghinnulal, aged about 65 years, Resident of Haldibadi, Chirimiri, District : Korea (Chhattisgarh)

Versus

Respondents	1	State of Chhattisgarh, through the Secretary, Food & Civil Supplies, D.K. Bhavan, Raipur.
	2.	The Officer on Special Duty, Food and Civil Supplies, D.K. Bhavan, Raipur (CG).
	3.	The Collector, Korea (CG)
	4.	Ashok Kumar Gupta, S/o. Haridas Gupta, Aged about 38 years, Resident of Haldibadi, Chirimiri, Tahsil-Manendragarh, District : Korea (CG)

Present : Shri R.S. Jaiswal, learned Sr. Advocate with Shri Yogesh Pandey, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A for State/Respondents 1, 2 & 3.
Shri. Kanak Tiwari, learned Sr. Advocate with Shri Mahendra Dubey, learned counsel for respondent No.4.

WRIT PETITION NO. 2312 OF 2003

Petitioner

1. Raj Kumar Gupta, S/o. Haridas Gupta, aged about 42 years, R/o. Dutt Colony, Ambikapur, Distt. Surguja.

2. Ashok Kr. Gupta, S/o. Shri Haridas Gupta, aged about 40 years, R/o. Haldibadi, Chirimiri, Tehsil Manendragarh, District Koriya (C.G.)

Versus

Respondents

1 The State of Chhattisgarh, through the Chief Secretary, DK.S. Bhavan, Mantralaya, Raipur (C.G.)

2. The Collector, Koria, Baikunthpur, Chhattisgarh.

3. Vikash Sheel, aged about 33 years, S/o. Shri Rakesh Kumar, Collector Koria, P.O. Baikunthpur (Chhattisgarh)

4. K.P. Patel, Aged about 50 years, S/o. Not known, Nayab Tahsildar, Chirimiri, District Koriya, (Chhattisgarh)

5. Om Prakash Pandey, aged about 35 years, S/o. Not known, Food and Civil Supplies Inspector, Chirimiri, District Koriya (C.G.) (Since transferred to M.P.) Presently at Sagar (M.P.).

6. M/s. Brindaprasad, Partnership Firm, Chirimiri, District Koriya (C.G.)

7. Brindaprasad, Aged about 65 years, S/o. Late Ghinnulal, Partner of the firm. M/s. Brindaprasad & Mahangulal, R/o. Haldibadi, Chirimiri, District Koria (C.G.).

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8. Indian Oil Corporation, through Depot Manager, P.O. Bishrampur, Distt. Surguja (C.G.)

Present : Shri Kanak Tiwari, learned Sr. Advocate with Shri Mahendra Dubey, learned counsel for the petitioners.
Shri Yashwant Singh, learned G.A for State/Respondents 1to 5.
Shri R.S. Jaiswal, learned Sr. Advocate with Shri Yogesh Pandey, learned counsel for respondents 6 & 7.
Shri Bhishma Kinger, learned counsel for respondent No.8.

(ORAL ORDER)
(Passed on 20th January, 2006)

To put up in one sentence, the dispute brought before the Court in all these writ petitions essentially relates to entitlement of the rival groups, petitioners 1 to 3 on one hand and the respondents 1 to 3 on the other hand, in W.P. No.6489/2005, with regard to carrying on the business of kerosene distribution in pursuance of license initially granted in the name of the firm called M/s. Bindraprasad Mehngulal in the year 1971, which was subsequently renewed in the year 1986 under the provisions of M.P. Kerosene Dealers Licensing Orders 1979 (for short 'Licensing Order'). Certain orders made by the authorities under the Licensing Order are also assailed in these proceedings; whereas it is the case of the petitioner in W.P. No.6489/2005 that they are alone entitled to carryon the business of kerosene distribution in pursuance of the above license, it is the case of the respondents 1 to 3 that in terms of the partition-deed filed as Annexure-P/3 in W.P. No.2312/2003, they are entitled to the license by virtue of partition-deed Annexure-P/3. In the context of the above factual controversy, respondents 1 to 3 in W.P. No.6489/2005 have already gone to the Civil Court and instituted Civil

Suit No.11-A/2005 in the Court of Civil Judge Class-II, Manendragarh for declaration and injunction. The petitioners 1 to 3 are admittedly the parties-defendants to the said suit. It is needless to state that the dispute brought before the Court could be resolved only by recording finding with regard to the status of the rival parties and their entitlement to license to carry on the business of distribution of kerosene. The dispute brought before the Court bristles with many disputed facts and the resolution of those factual controversies is practically impossible in a summary proceeding under Article 226 of the Constitution of India , on the basis of affidavits and counter-affidavits. The resolution of the dispute would necessarily involve permitting the parties to tender evidence and tendering witnesses for cross-examination by each other. This Court cannot be converted into a Civil Court to try all those issues. On that short ground, without expressing any opinion on the merits of the matter and keeping open all the contentions raised by the parties in their respective pleadings, I dismiss the Writ Petitions. The orders made by the statutory authorities which are subject matter judicial review in some of these writ petitions shall stand. It is open for the aggrieved parties to move appropriate applications before the Civil Court for interim reliefs. The Civil Court is directed to expedite the trial of the suit. No costs.

Sd/-
S.R.Nayak
Chief Justice

Subby

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..W.P.No.2312... **सन् 2003**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	01.12.2006. **W.P. No.2312 of 2003.** Shri Prateek Sharma, learned counsel for the petitioner. Shri U.N.S. Deo, learned Govt. Advocate for respondents 1 to 5. Shri Yogesh Pandey, learned counsel for respondents 6 sand 7. Shri Bhishma Kinger, learned counsel for respondent No.8. Heard. This writ petition has already been disposed of vide Order dated 20.01.2006 and this order has not been challenged in the Apex Court and it is final. No application has been filed. Why the Registry has listed this matter is not known. No order is required in this writ petition. Sd/- L.C. Bhadoo Judge	

Bordoloi